

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 2045 of 1996

BABA SINGH
V/S
STATE & ORS.

Mr. JL PUROHIT, for the appellant / petitioner

Mr. BL BHATI, DY.G.A., for the respondent

Date of Order : 5.11.2007

HON'BLE SHRI N P GUPTA, J.

ORDER

This petition has been filed by the petitioner, seeking to challenge the order Annex.3, of the Board of Revenue, the orders of the Collector dated 24.1.86, and 1.4.92, and seeking to quash the recovery, levied against the petitioner.

The facts of the case are, that the petitioner applied for conversion of his land in question, situated in Chak 1-U (being situated in Rural area), as he wanted to construct godowns for storing food grains, for Food Corporation of India. The application was filed in the year 1977, and the conversion was duly sanctioned. The petitioner was directed to deposit the conversion charges @ Re.1. per sq. yard, which the petitioner accordingly deposited. Thereafter the State Government framed other

Rules of 1981, for conversion of land into urban areas. Then Rules of 1991 were further framed. However, according to the petitioner, when he applied under the Rules of 1971, which rules remained in force upto 1.4.1992, and the conversion was granted vide order dated 5.5.77, which amount was deposited, at that time itself. Thereafter the Collector passed the order dated 24.1.86, in view of the subsequent order of the State Government dated 11.5.82, calling upon the petitioner to pay another sum of Rs.2,51,149.12 Paisa. The petitioner approached the Collector, contesting this recovery, whereupon by way of interim order, recovery was stayed. However, subsequently that stay was recalled. Then the petitioner approached the Board of Revenue by way of revision, which was dismissed as not maintainable. Thereafter, the present writ petition has been filed, in substance, seeking to challenge the demand.

It is contended by learned counsel for the petitioner, that the order of the State Government of the year 1982 is produced as Annex.1-D, being a Circular dated 12.5.1982, whereby it has been directed, that the conversion charges for the purpose of construction of godowns should be charged according to the conversion Rules for urban areas as promulgated in the year 1981, and it is on the basis of this Circular, that the impugned demand has been raised vide Annex.1-B. It is contended that once the conversion was sanctioned, amount was deposited, and

construction was raised, the things were almost complete, and any subsequent amendment could not be made retrospectively.

A reply to the writ petition has been filed, contending inter-alia that of course the petitioner was permitted to construct godowns vide order dated 5.5.77, and conversion charges were directed to be deposited to the tune of Rs.24,504/-, which were deposited. However, the petitioner submitted an undertaking, stipulating that he would deposit the difference of conversion charges, as and when they are enhanced by the government. The copy of the circular dated 12.5.82 was again produced as Annex.R/1, and copy of impugned demand has also been produced as Annex.R/2, and it is contended, that the petitioner is liable to pay the enhanced conversion charges.

In my view, a look at the Rules of 1971 shows that the rules do not contemplate any fluctuating rate of conversion charges, to be dependent on subsequent upward revision from time to time. Once the land is permitted to be converted, after levying the fixed and determined conversion charges, it is no more open to the State to upwardly revise the conversion charges subsequently. That being the position, the subsequent Rules, enacted in the year 1981, could not be made effective retrospectively to the conversion already made in the year 1977.

Thus, I do not find any ground to sustain the impugned recovery. Consequently, the writ petition is allowed. Impugned demand raised vide Annex.1-B dated 24.1.86, and subsequent orders passed in that sequence, to effectuate the recovery, are all quashed.

(N P GUPTA), J.

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